

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

James Carl Whaley, #1001117,)	
a/k/a James C. Whaley, #357132,)	
)	C.A. No. 4:23-4590-HMH-TER
Petitioner,)	
)	
vs.)	OPINION & ORDER
)	
Detention Captain Nick Gallam,)	
)	
Respondent.)	

This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Thomas E. Rogers, III made in accordance with 28 U.S.C. § 636(b)(1) and District of South Carolina Local Civil Rule 73.02.¹ Petitioner James C. Whaley (“Whaley”) is a detainee at the Aiken County Detention Center, where he is awaiting a civil commitment trial pursuant to the South Carolina Sexually Violent Predator Act, S.C. Code Ann. §§ 44-48-10 to -170. He appears to seek habeas relief from his 2013 state-court convictions for indecent exposure, committing a lewd act on a child under sixteen, and disseminating harmful material to minors. As grounds for relief, Whaley claims that he did not knowingly and intelligently waive his right to a jury trial and “did not have the required trial by an impartial jury.” (Pet., ECF No. 1.) Magistrate Judge Rogers filed his Report and Recommendation on January 4, 2024, and

¹ A report and recommendation carries no “presumptive weight,” and the responsibility for making a final determination remains with the court. Mathews v. Weber, 423 U.S. 261, 271 (1976). The court reviews de novo “those portions of the report . . . to which objection is made” and “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge” or “recommit the matter . . . with instructions.” 28 U.S.C. § 636(b)(1).

recommended dismissing the instant petition without prejudice and without requiring the respondent to file a return. (R&R, ECF No. 20.)

Whaley filed timely objections to the Report and Recommendation.² (Objs., ECF No. 22.) Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. See United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). “To trigger de novo review, an objecting party ‘must object to the finding or recommendation on that issue with sufficient specificity so as reasonably to alert the district court of the true ground for the objection.’” Elijah v. Dunbar, 66 F.4th 454, 460 (4th Cir. 2023) (quoting United States v. Midgette, 478 F.3d 616, 622 (4th Cir. 2007)). In the absence of specific objections to the Report and Recommendation of the magistrate judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

Upon review, Whaley's objections are non-specific or unrelated to the dispositive portions of the magistrate judge's Report and Recommendation. Therefore, after a thorough review of the magistrate judge's Report and the record in this case, the court adopts Magistrate Judge Rogers' Report and Recommendation and incorporates it herein.

² See Houston v. Lack, 487 U.S. 266 (1988).

It is therefore

ORDERED that Whaley's petition, docket number 1, is dismissed without prejudice and without requiring Respondent to file a return.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
Senior United States District Judge

Greenville, South Carolina
January 18, 2024

NOTICE OF RIGHT TO APPEAL

The Petitioner is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.